

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

**CIVIL CASE NO. 1:10cv197
[Criminal Case No. 4:98cr102]**

JOSEPH MARION HEAD,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on the Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody [Doc. 1]. Contained within that motion is a request for court-appointed counsel.

On July 7, 2005, the Hon. Lacy H. Thornburg entered a pre-filing injunction against the Petitioner as a result of his filing of more than 30 federal actions between 1975 and 2005. In Re Head, Miscellaneous Case No. 1:05mc204. On July 20, 2006, that injunction was modified to incorporate a permanent injunction. In Re Head, 2006 WL 2039897 (W.D.N.C. July 20, 2006), *appeal dismissed* 309 Fed. App'x 705 (4th Cir. Jan. 28, 2009).

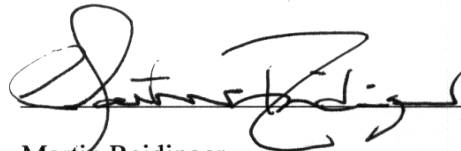
On September 9, 2010, this action was improvidently filed because the Clerk of Court at the United States Fourth Circuit Court of Appeals overlooked the injunction. On September 22, 2010, this Court received a letter from the Chief Deputy Clerk of Court for the Fourth Circuit in which he advised:

In light of the pre-filing injunction issued by the district court in 2006, which remains in effect, Mr. Head's filing should not have been docketed as a new civil action. The action should be dismissed as improvidently docketed.

[Doc. 2].

IT IS, THEREFORE, ORDERED that the Petitioner's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody [Doc. 1] and the motion for court-appointed counsel contained therein are hereby **DISMISSED** as improvidently filed and docketed.

Signed: September 28, 2010


Martin Reidinger
United States District Judge

